

### Remarks

Applicant would like to thank the Examiner for the courtesies shown to Applicant's representatives during the interview held on July 8, 2008. The following remarks commemorate the substance of the interview and are in response to the Action mailed April 15, 2008.

Claims 1-5 and 7-18 are pending with entry of this Amendment and stand rejected. Independent Claims 1, 17 and 18 have been amended with the entry of this amendment.

### Rejections premised upon Agostino

Claims 1-3, 7, 17 and 18 stand improperly rejected under § 102(e) as being anticipated by Agostino. During the interview, Applicant's representative and the Examiner discussed the differences between the reference Agostino and Applicant's claimed subject matter, and Applicant has amended independent Claims 1, 17 and 18 for clarification purposes. Claim 1, as amended, is instructive and recites in part:

gathering signal strength data of received uplink signals of *subscriber* mobile units as measured *and collected* by a cell site, *the mobile units being in voice communication with the cell site and using an active communications channel of the wireless system...*

Support for Applicant's amendment may be found in paragraphs [0011] – [0012] and [0035] of the published application.

As discussed during the interview, Agostino is directed to a system and method for measuring and analyzing uplink and downlink data in a telecommunications network by drive testing. A mobile diagnostic unit (MDU) 16 is connected to one or more mobile units (MU) 14 to collect and record downlink data received by the MU 14, *e.g.*, location data and signal strength data, while an engineer is traveling in a network area. *See* Col. 3, lines 56-66 and Fig. 1. Periodically, a mobile telephone exchange (MTE) records reverse link data (uplink). Col. 3, line 67 – Col. 4, line 1. The MTE and MDU data may then be merged and synchronized via time stamps, that is, both uplink and downlink measurements are synchronized. This processed data may then be viewed using a display to analyze the performance of the network. In each and every embodiment described in Agostino, the MUs 14 are “under study”, that is, the MUs are

pre-selected and are connected to an MDU to create an MDU data file. These MUs are not subscriber cellular phones in voice communication with a respective network. Thus, the system and method described in Agostino requires a computer (MDU) connected to MUs for collecting drive testing and signal strength data.

It is clear that the mobile units in Agostino are specific drive test units connected to a computer (MDU) for gathering signal data therefrom rather than ordinary subscribers or random cellular telephones in active voice communication with a communications network where the signal data is collected and measured at a respective cell site or base station. As discussed during the interview, the claimed subject matter does not rely on drive testing for the collection of path loss or signal strength data, but rather collects and measures path loss and signal strength data of cellular telephones during normal operation of a wireless system. (*See* paragraph [0035] of the published application). As discussed during the interview, there is no disclosure in Agostino of gathering signal strength data of the uplink signal or generating a set of data pairs as claimed, and Applicant respectfully submits that the support references of record fail to supplement the aforementioned deficiencies of Agostino. Applicant respectfully requests the reconsideration and withdrawal of the rejection of independent Claim 1.

Independent Claims 17 and 18 have been amended in a similar fashion as described above and for the same reasons, Applicant respectfully requests the reconsideration and withdrawal of the rejection of independent Claims 17 and 18.

As Claim 1 is in condition for allowance and Claims 2-5 and 7-16 depend therefrom, Applicant submits Claims 2-5 and 7-16 are allowable by virtue of their dependency alone without addressing the additional patentable subject matter therein. Reconsideration and withdrawal of the rejection of Claims 2-5 and 7-16 are respectfully requested.

**Conclusion**

Again, Applicant would like to thank the Examiner for the courtesies shown to Applicant's representatives during the interview of July 8, 2008.

Applicant respectfully submits that the claims are in condition for allowance and a notice to this effect is respectfully requested.

The Office is requested and hereby authorized to charge any required extension-of-time fees against Deposit Account Number 04-1679 to Duane Morris LLP.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,

/mcc/

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